

## OFFICE OF THE ATTORNEY GENERAL



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Honorable Bill Gilbert  
Revenue Commissioner  
Chambers County  
Lafayette, AL 36862

Tax Assessors - Assessments -  
Proof of Ownership - Homestead

A tax assessor has no alternative but to assess property in the name of an individual who desires to assess said property.

An affidavit can be sufficient proof to qualify an individual's property for a homestead exemption.

Dear Mr. Gilbert:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION 1

Whether an affidavit, claiming ownership of property, is sufficient proof of ownership to authorize the tax assessor to assess the property in the proffering individual's name.

FACTS AND ANALYSIS

An individual has presented to you his affidavit, which declares that he is the only lawful heir of a certain parcel

of real property. He has offered the affidavit in lieu of a deed, will or contract for deed, and requests that the property be assessed in his name.

This situation has been previously addressed by the Attorney General and the Supreme Court of Alabama. In Quarterly Report of the Attorney General, Volume 22, Page 44, quoting State Ex Rel Matson v. Laurendine, 199 Ala. 312, 74 So. 370 (Ala. 1917), it states:

"We find no case which warrants the opinion that the assessor in accepting property for tax assessment has imposed upon him the duty or can exercise the right to determine for himself the title of such property and the true ownership as between contesting claimants. This is a matter [with] which he cannot be concerned."

\* \* \*

"To deny the petitioner the right to assess his property would be to authorize the tax assessor to pass upon the title to the real estate and himself decide the true ownership. Such an anomalous situation was clearly not contemplated by the legislative department in the establishment of the office of tax assessor . . . ."

Relying upon the above cited authorities, as well as the more recent case of Dillard v. Alexander, 168 So.2d 233 (Ala. 1964), the Attorney General issued an informal opinion concerning the assessment of property to two purported owners. In Opinion to Honorable Louise S. Champion, Tax Assessor, Montgomery County, under date of August 13, 1969, the Attorney General opined that if someone desires to assess property in his name, the tax assessor has no alternative but to do so, even if it results in a double assessment.

#### CONCLUSION

If someone desires to assess property in his/her name, the tax assessor has no alternative but to comply with that person's request.

QUESTION 2

Is an affidavit sufficient proof to allow an individual to claim a homestead exemption?

FACTS AND ANALYSIS

The facts and analysis for Question 1 are applicable here as well. If an individual asserts ownership and use as a residence, the property can qualify for a homestead exemption.


CONCLUSION

An affidavit can be sufficient proof to allow an individual's property a homestead exemption.

I hope this sufficiently answers your questions. If our office can be of further assistance, please contact Claude E. Patton, Legal Division, Revenue Department.

Sincerely,

JEFF SESSIONS  
Attorney General  
By:

  
JAMES R. SOLOMON, JR.  
Chief, Opinions Division

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